

EXHIBIT 11.3

STANDARD FORM OF CAP SUBCONTRACT FOR CAP M&I USE

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

SUBCONTRACT AMONG THE UNITED STATES,
THE CENTRAL ARIZONA WATER CONSERVATION DISTRICT,
AND THE
PROVIDING FOR WATER SERVICE

CENTRAL ARIZONA PROJECT

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1. PREAMBLE:

THIS SUBCONTRACT, made this ____ day of _____, 200____, in pursuance generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof or supplementary thereto, including but not limited to the Boulder Canyon Project Act of December 21, 1928 (45 Stat. 1057), as amended, the Reclamation Project Act of August 4, 1939 (53 Stat. 1187), as amended, the Reclamation Reform Act of October 12, 1982 (96 Stat. 1263), and particularly the Colorado River Basin Project Act of September 30, 1968 (82 Stat. 885), as amended, all collectively hereinafter referred to as the "Federal Reclamation Laws," among the UNITED STATES OF AMERICA, hereinafter referred to as the "United States" acting through the Secretary of the Interior, the CENTRAL ARIZONA WATER CONSERVATION DISTRICT, hereinafter referred to as the "Contractor," a water conservation district organized under the laws of Arizona, with its principal place of business in Phoenix, Arizona, and the _____, hereinafter referred to as the "Subcontractor," with its principal place of business in _____, Arizona;

WITNESSETH, THAT:

2. EXPLANATORY RECITALS:

WHEREAS, the Colorado River Basin Project Act provides, among other things, that for the purposes of furnishing irrigation and municipal and industrial water supplies to water deficient areas of Arizona and western New Mexico through direct diversion or exchange of water, control of floods, conservation and development of fish and wildlife resources, enhancement of recreation opportunities, and for other purposes, the Secretary of the Interior shall construct, operate, and maintain the Central Arizona Project; and

WHEREAS, pursuant to the provisions of Arizona Revised Statutes §§ 48-3701, et seq., the Contractor has been organized with the power to enter into a contract or contracts with the Secretary of the Interior to accomplish the purposes of Arizona Revised Statutes, §§ 48-3701, et seq.; and

WHEREAS, pursuant to Section 304(b)(1) of the Colorado River Basin Project Act, the Secretary of the Interior has determined that it is necessary to effect repayment of the cost of constructing the Central Arizona Project pursuant to a master contract and that the United States, together with the Contractor, shall be a party to contracts that are in conformity with and subsidiary to the master contract; and

WHEREAS, the United States and the Contractor entered into Contract No. 14-06-W-245, Amendment No. 1, dated December 1, 1988, hereinafter referred to as the "Repayment Contract," a copy of which is attached hereto as Exhibit "A" and by this reference made a part hereof, whereby the Contractor agrees to repay to the United States the reimbursable costs of the Central Arizona Project allocated to the Contractor; and

WHEREAS, the Subcontractor is in need of a water supply and desires to subcontract with the United States and the Contractor for water service from water supplies available under the Central Arizona Project; and

WHEREAS, upon completion of the Central Arizona Project, water shall be available for delivery to the Subcontractor;

1 NOW THEREFORE, in consideration of the mutual and dependent
2 covenants herein contained, it is agreed as follows:

3 3. DEFINITIONS:

4 Definitions included in the Repayment Contract are applicable to this
5 subcontract; Provided, however, That the terms "Agricultural Water" or "Irrigation Water"
6 shall mean water used for the purposes defined in the Repayment Contract on tracts of
7 land operated in units of more than 5 acres. The first letters of terms so defined are
8 capitalized herein. As heretofore indicated, a copy of the Repayment Contract is attached
9 as Exhibit "A."

10 4. DELIVERY OF WATER:

11 4.1 Obligations of the United States. Subject to the terms, conditions,
12 and provisions set forth herein and in the Repayment Contract, during such periods as it
13 operates and maintains the Project Works, the United States shall deliver Project Water
14 for M&I use by the Subcontractor. The United States shall use all reasonable diligence to
15 make available to the Subcontractor the quantity of Project Water specified in the schedule
16 submitted by the Subcontractor in accordance with Article 4.4. After transfer of OM&R to
17 the Operating Agency, the United States shall make deliveries of Project Water to the
18 Operating Agency which shall make subsequent delivery to the Subcontractor as provided
19 herein.

20 4.2 Term of Subcontract.

21 This subcontract shall become effective upon its confirmation as provided
22 for in Article 6.12 and shall remain in effect for a period of 50 years beginning with the
23 January 1 of the Year following that in which the Secretary issues the Notice of Completion
24 of the Water Supply System; Provided, That this subcontract may be renewed upon written
25 request by the Subcontractor upon terms and conditions of renewal to be agreed upon not
26 later than 1 year prior to the expiration of this subcontract; and Provided, further, That such
terms and conditions shall be consistent with Article 9.9 of the Repayment Contract.

4.3 Conditions Relating to Delivery and Use.

1 Delivery and use of water under this subcontract is conditioned on the following, and the
2 Subcontractor hereby agrees that:

3 (a) All uses of Project Water and Return Flow shall be
4 consistent with Arizona water law unless such law is inconsistent with the Congressional
5 directives applicable to the Central Arizona Project.

6 (b) The system or systems through which water for Agricultural,
7 M&I, and Miscellaneous (including ground water recharge) purposes is conveyed after
8 delivery to the Subcontractor shall consist of pipelines, canals, distribution systems, or other
9 conduits provided and maintained with linings adequate in the Contracting Officer's
10 judgment to prevent excessive conveyance losses.

11 (c) The Subcontractor shall not pump, or within its legal
12 authority, permit others to pump ground water from within the exterior boundaries of the
13 Subcontractor's service area, which has been delineated on a map filed with the Contractor
14 and approved by the Contractor and the Contracting Officer, for use outside of said service
15 area unless such pumping is permitted under Title 45, Chapter 2, Arizona Revised Statutes,
16 as it may be amended from time to time, and the Contracting Officer, the Contractor, and
17 the Subcontractor shall agree, or shall have previously agreed, that a surplus of ground
18 water exists and drainage is or was required; Provided, however, That such pumping may
19 be approved by the Contracting Officer and the Contractor, and approval shall not be
20 unreasonably withheld, if such pumping is in accord with the Basin Project Act and upon
21 submittal by the Subcontractor of a written certification from the Arizona Department of
22 Water Resources or its successor agency that the pumping and transportation of ground
23 water is in accord with Title 45, Chapter 2, Arizona Revised Statutes, as it may be amended
24 from time to time.

25 (d) The Subcontractor shall not sell or otherwise dispose of or
26 permit the sale or other disposition of any Project Water for use outside of Maricopa, Pinal,

and Pima Counties; Provided, however, That this does not prohibit exchanges of Project Water covered by separate agreements; and Provided, further, That this does not prohibit effluent exchanges with Indian tribes pursuant to Article 6.2.

(e) (i) Project Water scheduled for delivery in any Year under this subcontract may be used by the Subcontractor or resold, or exchanged by the Subcontractor pursuant to appropriate agreements approved by the Contracting Officer and the Contractor. If said water is resold or exchanged by the Subcontractor for an amount in excess of that which the Subcontractor is obligated to pay under this subcontract, the excess amount shall be paid forthwith by the Subcontractor to the Contractor for application against the Contractor's Repayment Obligation to the United States; Provided, however, That the Subcontractor shall be entitled to recover actual costs of transportation, treatment, and distribution, including but not limited to capital costs and OM&R costs.

(ii) Project Water scheduled for delivery in any Year under this subcontract that cannot be used, resold, or exchanged by the Subcontractor may be made available by the Contracting Officer and Contractor to other users. If such Project Water is sold to or exchanged with other users, the Subcontractor shall be relieved of its payments hereunder only to the extent of the amount paid to the Contractor by such other users, but not to exceed the amount the Subcontractor is obligated to pay under this subcontract for said water.

(iii) In the event the Subcontractor or the Contracting Officer and the Contractor are unable to sell any portion of the Subcontractor's Project Water scheduled for delivery and not required by the Subcontractor, the Subcontractor shall be relieved of the pumping energy portion of the OM&R charges associated with the undelivered water as determined by the Contractor.

(f) Notwithstanding any other provision of this subcontract, Project Water shall not be delivered to the Subcontractor unless and until the Subcontractor has obtained final environmental clearance from the United States for the system or systems

1 through which Project Water is to be conveyed after delivery to the Subcontractor at the
2 Subcontractor's Project turnout(s). Such system(s) shall include all pipelines, canals,
3 distribution systems, treatment, storage, and other facilities through or in which Project
4 Water is conveyed, stored, or treated after delivery to the Subcontractor at the
5 Subcontractor's Project turnout(s). In each instance, final environmental clearance will be
6 based upon a review by the United States of the Subcontractor's plans for taking and using
7 Project Water and will be given or withheld by the United States in accordance with the
8 Final Environmental Impact Statement – Water Allocations and Water Service Contracting
9 (FES 82-7, filed March 19, 1982) and the National Environmental Policy Act of 1969 (83
10 Stat. 852). Any additional action(s) required on behalf of the Subcontractor in order to
11 obtain final environmental clearance from the United States will be identified to the
12 Subcontractor by the United States, and no Project Water shall be delivered to the
13 Subcontractor unless and until the Subcontractor has completed all such action(s) to the
14 satisfaction of the United States.

14 4.4 Procedure for Ordering Water.

15 (a) At least 15 months prior to the date the Secretary expects
16 to issue the Notice of Completion of the Water Supply System, or as soon thereafter as is
17 practicable, the Contracting Officer shall announce by written notice to the Contractor the
18 amount of Project Water available for delivery during the Year in which said Notice of
19 Completion is issued (initial Year of water delivery) and during the following Year. Within
20 30 days of receiving such notice, the Contractor shall issue a notice of availability of Project
21 Water to the Subcontractor. The Subcontractor shall, within a reasonable period of time
22 as determined by the Contractor, submit a written schedule to the Contractor and the
23 Contracting Officer showing the quantity of water desired by the Subcontractor during each
24 month of said initial Year and the following Year. The Contractor shall notify the
25 Subcontractor by written notice of the Contractor's action on the requested schedule within
26 2 months of the date of receipt of such request.

(b) The amounts, times, and rates of delivery of Project Water to the Subcontractor during each Year subsequent to the Year following said initial Year of water delivery shall be in accordance with a water delivery schedule for that Year. Such schedule shall be determined in the following manner:

(i) On or before June 1 of each Year beginning with the Year following the initial Year of water delivery pursuant to this subcontract, the Contracting Officer shall announce the amount of Project Water available for delivery during the following Year in a written notice to the Contractor. In arriving at this determination, the Contracting Officer, subject to the provisions of the Repayment Contract, shall use his best efforts to maximize the availability and delivery of Arizona's full entitlement of Colorado River water over the term of this subcontract. Within 30 days of receiving said notice, the Contractor shall issue a notice of availability of Project Water to the Subcontractor.

(ii) On or before October 1 of each Year beginning with the Year following said initial Year of water delivery, the Subcontractor shall submit in writing to the Contractor and the Contracting Officer a water delivery schedule indicating the amounts of Project Water desired by the Subcontractor during each month of the following Year along with a preliminary estimate of Project Water desired for the succeeding 2 years.

(iii) Upon receipt of the schedule, the Contractor and the Contracting Officer shall review it and, after consultation with the Subcontractor, shall make only such modifications to the schedule as are necessary to ensure that the amounts, times, and rates of delivery to the Subcontractor are consistent with the delivery capability of the Project, considering, among other things, the availability of water and the delivery schedules of all subcontractors; Provided, That this provision shall not be construed to reduce annual deliveries to the Subcontractor.

(iv) On or before November 15 of each Year beginning with the Year following said initial Year of water delivery, the Contractor shall determine and furnish to the Subcontractor and the Contracting Officer the water delivery

1 schedule for the following Year which shall show the amount of water to be delivered to the
2 Subcontractor during each month of that Year, contingent upon the Subcontractor
3 remaining eligible to receive water under all terms contained herein.

4 (c) The monthly water delivery schedules may be amended
5 upon the Subcontractor's written request to the Contractor. Proposed amendments shall
6 be submitted by the Subcontractor to the Contractor no later than 15 days before the de-
7 sired change is to become effective, and shall be subject to review and modification in like
8 manner as the schedule. The Contractor shall notify the Subcontractor and the Contracting
9 Officer of its action on the Subcontractor's requested schedule modification within 10 days
10 of the Contractor's receipt of such request.

11 (d) The Contractor and the Subcontractor shall hold the United
12 States, its officers, agents, and employees, harmless on account of damage or claim of
13 damage of any nature whatsoever arising out of or connected with the actions of the
14 Contractor regarding water delivery schedules furnished to the Subcontractor.

15 (e) In no event shall the Contracting Officer or the Contractor
16 be required to deliver to the Subcontractor from the Water Supply System in any one month
17 a total amount of Project Water greater than 11 percent of the Subcontractor's maximum
18 entitlement; Provided, however, That the Contracting Officer may deliver a greater
19 percentage in any month if such increased delivery is compatible with the overall delivery
20 of Project Water to other subcontractors as determined by the Contracting Officer and the
21 Contractor and if the Subcontractor agrees to accept such increased deliveries.

22 4.5 Points of Delivery—Measurement and Responsibility for Distribution
23 of Water.

24 (a) The water to be furnished to the Subcontractor pursuant to
25 this subcontract shall be delivered at turnouts to be constructed by the United States at
26 such point(s) on the Water Supply System as may be agreed upon in writing by the
Contracting Officer and the Contractor, after consultation with the Subcontractor.

(b) Unless the United States and the Subcontractor agree by contract to the contrary, the Subcontractor shall construct and install, at its sole cost and expense, connection facilities required to take and convey the water from the turnouts to the Subcontractor's service area. The Subcontractor shall furnish, for approval of the Contracting Officer, drawings showing the construction to be performed by the Subcontractor within the Water Supply System right-of-way 6 months before starting said construction. The facilities may be installed, operated, and maintained on the Water Supply System right-of-way subject to such reasonable restrictions and regulations as to type, location, method of installation, operation, and maintenance as may be prescribed by the Contracting Officer.

(c) All water delivered from the Water Supply System shall be measured with equipment furnished and installed by the United States and operated and maintained by the United States or the Operating Agency. Upon the request of the Subcontractor or the Contractor, the accuracy of such measurements shall be investigated by the Contracting Officer or the Operating Agency, Contractor, and Subcontractor, and any errors which may be mutually determined to have occurred therein shall be adjusted; Provided, That in the event the parties cannot agree on the required adjustment, the Contracting Officer's determination shall be conclusive.

(d) Neither the United States, the Contractor, nor the Operating Agency shall be responsible for the control, carriage, handling, use, disposal, or distribution of Project Water beyond the delivery point(s) agreed to pursuant to Subarticle 4.5(a). The Subcontractor shall hold the United States, the Contractor, and the Operating Agency harmless on account of damage or claim of damage of any nature whatsoever for which there is legal responsibility, including property damage, personal injury, or death arising out of or connected with the Subcontractor's control, carriage, handling, use, disposal, or distribution of such water beyond said delivery point(s).

4.6 Temporary Reductions. In addition to the right of the United

1 States under Subarticle 8.3(a)(iv) of the Repayment Contract temporarily to discontinue or
2 reduce the amount of water to be delivered, the United States or the Operating Agency
3 may, after consultation with the Contractor, temporarily discontinue or reduce the quantity
4 of water to be furnished to the Subcontractor as herein provided for the purposes of
5 investigation, inspection, maintenance, repair, or replacement of any of the Project facilities
6 or any part thereof necessary for the furnishing of water to the Subcontractor, but so far as
7 feasible the United States or the Operating Agency shall coordinate any such
8 discontinuance or reduction with the Subcontractor and shall give the Subcontractor due
9 notice in advance of such temporary discontinuance or reduction, except in case of
10 emergency, in which case no notice need be given. Neither the United States, its officers,
11 agents, and employees, nor the Operating Agency, its officers, agents, and employees,
12 shall be liable for damages when, for any reason whatsoever, any such temporary
13 discontinuance or reduction in delivery of water occurs. If any such discontinuance or tem-
14 porary reduction results in deliveries to the Subcontractor of less water than what has been
15 paid for in advance, the Subcontractor shall be entitled to be reimbursed for the appropriate
16 proportion of such advance payments prior to the date of the Subcontractor's next payment
17 of water service charges or the Subcontractor may be given credit toward the next payment
18 of water charges if the Subcontractor should so desire.

18 4.7 Priority in Case of Shortage. Subject to the provisions of Section
19 304(e) of the Basin Project Act, any Project Water furnished for non-Indians through Project
20 facilities shall, in the event of shortage thereof, as determined by the Contracting Officer
21 after consultation with the Contractor, be reduced pro rata until exhausted, first for
22 Miscellaneous Water uses and next for Agricultural Water uses before water furnished for
23 non-Indian M&I use is reduced. Thereafter, water for M&I uses shall be reduced pro rata
24 among all non-Indian M&I users. All Project Water converted from agricultural to M&I use
25 shall be delivered with the same priority as other Project M&I Water. Pursuant to the
26 authority vested in the Secretary by the Reclamation Act of 1902 (32 Stat. 388), as

1 amended and supplemented, the Basin Project Act, the Regulations for Implementing the
2 Procedural Provisions of the National Environmental Policy Act (40 CFR Part 1505), and
3 the Implementing Procedures of the U. S. Department of the Interior (516 DM 5.4), the
4 relative priorities between Indian and non-Indian uses will be determined by the Secretary
5 consistent with the allocations published in the Federal Register on March 24, 1983.

6 4.8 Secretarial Control of Return Flow.

7 (a) The Secretary reserves the right to capture all Return Flow
8 flowing from the exterior boundaries of the Contractor's Service Area as a source of supply
9 and for distribution to and use of the Central Arizona Project to the fullest extent practicable.
10 The Secretary also reserves the right to capture for Project use Return Flow which
11 originates or results from water contracted for from the Central Arizona Project within the
12 boundaries of the Contractor's Service Area if, in his judgment, such Return Flow is not
13 being put to a beneficial use. The Subcontractor may recapture and reuse or sell its Return
14 Flow; Provided, however, That such Return Flow may not be sold for use outside Maricopa,
15 Pinal, and Pima Counties; and Provided, further, That this does not prohibit effluent
16 exchanges with Indian tribes pursuant to Article 6.2. The Subcontractor shall, at least 60
17 days in advance of any proposed sale of such water, furnish the following information in
18 writing to the Contracting Officer and the Contractor:

- 19 (i) The name and address of the prospective buyer.
20 (ii) The location and proposed use of the Return Flow.
21 (iii) The price to be charged for the Return Flow.

22 (b) The price charged for the Return Flow may cover the cost
23 incurred by the Subcontractor for Project Water plus the cost required to make the Return
24 Flow usable. If the price received for the Return Flow is greater than the costs incurred by
25 the Subcontractor, as described above, the excess amount shall be forthwith returned by
26 the Subcontractor to the Contractor for application against the Contractor's Repayment
Obligation to the United States. Costs required to make Return Flow usable shall include

1 but not be limited to capital costs and OM&R costs including transportation, treatment, and
2 distribution, and the portion thereof which may be retained by the Subcontractor shall be
3 subject to the advance approval of the Contractor and the Contracting Officer.

4 (c) Any Return Flow captured by the United States and
5 determined by the Contracting Officer and the Contractor to be suitable and available for
6 use by the Subcontractor may be delivered by the United States or Operating Agency to the
7 Subcontractor as a part of the water supply for which the Subcontractor subcontracts
8 hereunder and such water shall be accounted and paid for pursuant to the provisions
9 hereof.

10 (d) All capture, recapture, use, reuse, and sale of Return Flow
11 under this article shall be in accord with Arizona water law unless such law is inconsistent
12 with the Congressional directives applicable to the Central Arizona Project.

13 4.9 Water and Air Pollution Control. The Subcontractor, in carrying out
14 this subcontract, shall comply with all applicable water and air pollution laws and regulations
15 of the United States and the State of Arizona and shall obtain all required permits or
16 licenses from the appropriate Federal, State, or local authorities.
17 * * *

18 4.10 Quality of Water. The operation and maintenance of Project
19 facilities shall be performed in such manner as is practicable to maintain the quality of water
20 made available through such facilities at the highest level reasonably attainable as
21 determined by the Contracting Officer. Neither the United States, the Contractor, nor the
22 Operating Agency warrants the quality of water and is under no obligation to construct or
23 furnish water treatment facilities to maintain or better the quality of water. The
24 Subcontractor waives its right to make a claim against the United States, the Operating
25 Agency, the Contractor, or another subcontractor because of changes in water quality
26 caused by the commingling of Project Water with other water.

4.11 Exchange Water.

(a) Where the Contracting Officer determines the Subcontractor
is physically able to receive Colorado River mainstream water in exchange for or in

1 replacement of existing supplies of water from surface sources other than the Colorado
2 River, the Contracting Officer may require that the Subcontractor accept said mainstream
3 water in exchange for or in replacement of said existing supplies pursuant to the provisions
4 of Section 304(d) of the Basin Project Act; Provided, however, That a subcontractor on the
5 Project aqueduct shall not be required to enter into exchanges in which existing supplies
6 of water from surface sources are diverted for use by other subcontractors downstream on
7 the Project aqueduct.

8 (b) If, in the event of shortages, the Subcontractor has yielded
9 water from other surface water sources in exchange for Colorado River mainstream water
10 supplied by the Contractor or the Operating Agency, the Subcontractor shall have first
11 priority against other users supplied with Project Water that have not yielded water from
12 other surface water sources but only in quantities adequate to replace the water so yielded.

13 4.12 Entitlement to Project M&I Water.

14 (a) For the Year in which the Secretary issues the Notice of
15 Completion of the Water Supply System, the Subcontractor's entitlement to Project Water
16 for M&I uses shall be determined by the Contractor after consultation with the
17 Subcontractor and the Contracting Officer. Commencing with the Year following that in
18 which the Secretary issues the Notice of Completion of the Water Supply System, the
19 Subcontractor is entitled to take a maximum of _____ acre-feet of Project Water for M&I
20 uses including but not limited to ground water recharge.

21 (b) If at any time during the term of this subcontract there is
22 available for allocation additional M&I Project Water, or Agricultural Water converted to M&I
23 use, it shall be delivered to the Subcontractor at the same water service charge per
24 acre-foot and with the same priority as other M&I Water, upon execution or amendment of
25 an appropriate subcontract among the United States, the Contractor, and the Subcontractor
26 and payment of an amount equal to the acre-foot charges previously paid by other
subcontractors pursuant to Article 5.2 hereof plus interest. In the case of Agricultural Water

1 conversions, the payment shall be reduced by all previous payments of agricultural capital
2 charges for each acre-foot of water converted. The interest due shall be calculated for the
3 period between issuance of the Notice of Completion of the Water Supply System and
4 execution or amendment of the subcontract using the weighted interest rate received by the
5 Contractor on all investments during that period.

6 **4.13 Delivery of Project Water Prior to Completion of Project Works.**

7 Prior to the date of issuance of the Notice of Completion of the Water Supply System by
8 the Secretary, water may be made available for delivery by the Secretary on a "when
9 available" basis at a water rate and other terms to be determined by the Secretary after
10 consultation with the Contractor.

11 **5. PAYMENTS:**

12 **5.1 Water Service Charges for Payment of Operation, Maintenance,**
13 **and Replacement Costs.** Subject to the provisions of Article 5.4 hereof, the Subcontractor
14 shall pay in advance for Project OM&R costs estimated to be incurred by the United States
15 or the Operating Agency. At least 15 months prior to first delivery of Project Water, or as
16 soon thereafter as is practicable, the Contractor shall furnish the Subcontractor with an
17 estimate of the Subcontractor's share of OM&R costs to the end of the initial Year of water
18 delivery and an estimate of such costs for the following Year. Within a reasonable time of
19 the receipt of said estimates, as determined by the Contractor, but prior to the delivery of
20 water, the Subcontractor shall advance to the Contractor its share of such estimated costs
21 to the end of the initial month of water delivery and without further notice or demand shall
22 on or before the first day of each succeeding month of the initial Year of water delivery and
23 the following Year advance to the Contractor in equal monthly installments the Sub-
24 contractor's share of such estimated costs. Advances of monthly payments for each
25 subsequent Year shall be made by the Subcontractor to the Contractor on the basis of
26 annual estimates to be furnished by the Contractor on or before June 1 preceding each said

subsequent Year and the advances of payments for said estimated costs shall be due and payable in equal monthly payments on or before the first day of each month of the subsequent Year. Differences between actual OM&R costs and estimated OM&R costs shall be determined by the Contractor and shall be adjusted in the next succeeding annual estimates; Provided, however, That if in the opinion of the Contractor the amount of any annual OM&R estimate is likely to be insufficient to cover the above-mentioned costs during such period, the Contractor may increase the annual estimate of the Subcontractor's OM&R costs by written notice thereof to the Subcontractor, and the Subcontractor shall forthwith increase its remaining monthly payments in such Year to the Contractor by the amount necessary to cover the insufficiency. All estimates of OM&R costs shall be accompanied by data and computations relied on by the Contractor in determining the amounts of the estimated OM&R costs and shall be subject to joint review by the Subcontractor and the Contractor.

5.2 M&I Water Service Charges.

(a) Subject to the provisions of Article 5.4 hereof and in addition to the OM&R payments required in Article 5.1 hereof, the Subcontractor shall, in advance of the delivery of Project M&I Water by the United States or the Operating Agency, make payment to the Contractor in equal semiannual installments of an M&I Water service capital charge based on a maximum entitlement of _____ acre-feet per year multiplied by the rates set forth in the following schedule.

<u>Payment for the calendar year of</u>	<u>Payment due for each acre- foot of purchased capacity</u>
1988-1993	\$ 5
1994	6
1995	8
1996	10
1997	12
1998	14
1999	15
2000	16
2001	17
2002	18
2003	19

2004	20
2005	21
2006	22
2007	23
2008	24
2009	25
2010	26
2011	27
2012	28
2013	29
2014	30
2015	31
2016	32
2017	33
2018	34
2019	35
2020	36
2021	37
2022	38
2023	39
2024	40
2025 - through the end of the term of this subcontract	40

(b) The M&I Water service capital charge may be adjusted periodically by the Contractor as a result of repayment determinations provided for in the Repayment Contract and to reflect all sources of revenue, but said charge per acre-foot shall not be greater than the amount required to amortize Project capital costs allocated to the M&I function and determined by the Contracting Officer to be a part of the Contractor's Repayment Obligation. Such amortization shall include interest at 3.342 percent per annum. If any adjustment is made in the M&I Water service capital charge, notice thereof shall be given by the Contractor to the United States and to the Subcontractor on or before June 1 of the Year preceding the Year the adjusted charge becomes effective. The M&I Water service capital charge payment for the initial Year shall be advanced to the Contractor in equal semiannual installments on or before December 1 preceding the initial Year and June 1 of said initial Year; Provided, however, That the payment of the initial M&I Water service capital charge shall not be due until the Year in which Project Water is available to the Subcontractor after Notice of Completion of the Water Supply System is issued. Thereafter, for each subsequent Year, payments by the Subcontractor in

1 accordance with the foregoing provisions shall be made in equal semiannual installments
2 on or before the December 1 preceding said subsequent Year and the June 1 of said
3 subsequent Year as may be specified by the Contractor in written notices to the
4 Subcontractor.

5 (c) On or before the first anniversary of execution of this
6 subcontract and on or before each succeeding anniversary, the Subcontractor shall pay,
7 in addition to all other payments required herein, an M&I subcontract charge. The
8 subcontract charge shall be \$2.00 per acre-foot for _____ acre-feet of M&I Water. Prior
9 to the date of issuance of the Notice of Completion of the Water Supply System, the
10 subcontract charge shall be paid each Year by the Subcontractor to the United States. The
11 Contracting Officer shall advise the Contractor of the amounts and dates of the
12 Subcontractor's payments. After the date of issuance of the Notice of Completion of the
13 Water Supply System, the subcontract charge shall be paid each Year to the Contractor by
14 the Subcontractor and the Contractor shall credit the revenues obtained from the
15 subcontract charge against the Subcontractor's water service charges payable to the
16 Contractor that Year.

17 (d) Funds advanced to the United States by the Subcontractor
18 pursuant to Article 5.2(c) as a subcontracting charge shall be credited by the Contractor
19 against the Subcontractor's initial capital charges for water deliveries under this subcontract.
20 Credit provided to the Subcontractor shall include interest from the date the
21 Subcontractor's funds are transferred to the United States through the effective date of
22 credit for payment of capital costs as recorded in the Contractor's records. Interest credited
23 to the Subcontractor shall be at an annual rate of 1 (one) percent less than the weighted
24 rate received by the Contractor on all investments during the period for which the
25 Subcontractor's payments earn an interest credit.

26 (e) Payment of all M&I Water service capital and
corresponding OM&R charges becoming due hereunder prior to or on the dates stipulated

1 in Articles 5.1 and 5.2 is a condition precedent to receiving M&I Water under this
2 subcontract.

3 INSERT (f) for Cities and Towns

4 (f) All payments to be made to the Contractor or the United
5 States under Articles 5.1 and 5.2 hereof shall be made by the Subcontractor as such
6 payments fall due from revenues legally available to the Subcontractor for such payment
7 from the sale of water to its water users and from any and all other sources which might be
8 legally available; Provided, That no portion of the general taxing authority of the
9 Subcontractor, nor its general funds, nor funds from ad valorem taxes are obligated by the
10 provisions of this subcontract, nor shall such sources be liable for the payments,
11 contributions, and other costs pursuant to this subcontract, or to satisfy any obligation
12 hereunder unless duly and lawfully allocated and budgeted for such purpose by the
13 Subcontractor for the applicable budget year; and Provided, further, That no portion of this
14 agreement shall ever be construed to create an obligation superior in lien to or on a parity
15 with the Subcontractor's revenue bonds now or hereafter issued. The Subcontractor shall
16 levy and impose such necessary water service charges and rates and use all the authority
17 and resources available to it to collect all such necessary water service charges and rates
18 in order that the Subcontractor may meet its obligations hereunder and make in full all
19 payments required under this subcontract on or before the date such payments become
20 due.

21 5.3 Loss of Entitlement. The Subcontractor shall have no right to
22 delivery of water from Project facilities during any period in which the Subcontractor may
23 be in arrears in the payment of any charges due the Contractor. The Contractor may sell
24 to another entity any water determined to be available under the Subcontractor's entitlement
25 for which payment is in arrears; Provided, however, that the Subcontractor may regain the
26 right to use any unsold portion of the water determined to be available under the original
entitlement upon payment of all delinquent charges plus any difference between the

subcontractual obligation and the price received in the sale of the water by the Contractor and payment of charges for the current period.

5.4 Refusal to Accept Delivery. In the event the Subcontractor fails or refuses in any Year to accept delivery of the quantity of water available for delivery to and required to be accepted by it pursuant to this subcontract, or in the event the Subcontractor in any Year fails to submit a schedule for delivery as provided in Article 4.4 hereof, said failure or refusal shall not relieve the Subcontractor of its obligation to make the payments required in this subcontract.

5.5 Charge for Late Payments. The Subcontractor shall pay a late payment charge on installments or charges which are received after the due date. The late payment charge percentage rate calculated by the Department of the Treasury and published quarterly in the Federal Register shall be used; Provided, That the late payment charge percentage rate shall not be less than 0.5 percent per month. The late payment charge percentage rate applied on an overdue payment shall remain in effect until payment is received. The late payment rate for a 30-day period shall be determined on the day immediately following the due date and shall be applied to the overdue payment for any portion of the 30-day period of delinquency. In the case of partial late payments, the amount received shall first be applied to the late charge on the overdue payment and then to the overdue payment.

6. GENERAL PROVISIONS:

6.1 Repayment Contract Controlling. Pursuant to the Repayment Contract, the United States has agreed to construct and, in the absence of an approved Operating Agency, to operate and maintain the works of the Central Arizona Project and to deliver Project Water to the various subcontractors within the Project Service Area; and the Contractor has obligated itself for the payment of various costs, expenses, and other amounts allocated to the Contractor pursuant to Article 9 of the Repayment Contract. The Subcontractor expressly approves and agrees to all the terms presently set out in the Repayment Contract including Subarticle 8.8(b)(viii) thereof, or as such terms may be hereafter amended, and agrees to be bound by the actions to be taken and the determinations to be made under that Repayment Contract, except as otherwise provided herein.

6.2 Effluent Exchanges. The Subcontractor may enter into direct effluent exchange agreements with Indian entities which have received an allocation of

1 Project Water and receive all benefits from the exchange. If the Subcontractor chooses to
2 exchange directly with the Indians, then the Subcontractor's entitlement to Project Water
3 shall be reduced by the amount of Project Water received in exchange by the
4 Subcontractor. The Subcontractor may also offer raw sewage or effluent to the Contractor
5 for the purpose of exchanging such sewage or effluent for the benefit of all subcontractors.
6 If such an exchange is consummated, the Subcontractor's entitlement to Project Water
7 shall remain at the level specified in Article 4.12. A copy of the above referenced
8 agreements shall be filed with the Contractor and the Contracting Officer.

9 6.3 Notices. Any notice, demand or request authorized or required by
10 this subcontract shall be deemed to have been given when mailed, postage prepaid, or
11 delivered to the Regional Director, Lower Colorado Region, Bureau of Reclamation, P. O.
12 Box 61470, Boulder City, Nevada 89006-1470, on behalf of the Contractor or
13 Subcontractor; to the Central Arizona Water Conservation District, P. O. Box 43020,
14 Phoenix, Arizona 85080-3020, on behalf of the United States or Subcontractor; and to the
15 States or Contractor. The designation of the addressee or the address may be changed
16 by notice given in the same manner as provided in this Article for other notices.

13 6.4 Water Conservation Program.

14 (a) While the contents and standards of a given water
15 conservation program are primarily matters of State and local determination, there is a
16 strong Federal interest in developing an effective water conservation program because of
17 this subcontract. The Subcontractor shall develop and implement an effective water
18 conservation program for all uses of water which is provided from or conveyed through
19 Federally constructed or Federally financed facilities. That water conservation program
20 shall contain definite goals, appropriate water conservation measures, and time schedules
21 for meeting the water conservation objectives.

22 (b) A water conservation program, acceptable to the
23 Contractor and the Contracting Officer, shall be in existence prior to one or all of the
24 following: (1) service of Federally stored/conveyed water; (2) transfer of operation and
25 maintenance of the Project facilities to the Contractor or Operating Agency; or (3) transfer
26 of the Project to an operation and maintenance status. The distribution and use of
Federally stored/conveyed water and/or the operation of Project facilities transferred to the
Contractor shall be consistent with the adopted water conservation program. Following
execution of this subcontract, and at subsequent 5-year intervals, the Subcontractor shall
resubmit the water conservation plan to the Contractor and the Contracting Officer for

review and approval. After review of the results of the previous 5 years and after consultation with the Contractor, the Subcontractor, and the Arizona Department of Water Resources or its successor, the Contracting Officer may require modifications in the water conservation program to better achieve program goals.

6.5 Rules, Regulations, and Determinations.

(a) The Contracting Officer shall have the right to make, after an opportunity has been offered to the Contractor and Subcontractor for consultation, rules and regulations consistent with the provisions of this subcontract, the laws of the United States and the State of Arizona, to add to or to modify them as may be deemed proper and necessary to carry out this subcontract, and to supply necessary details of its administration which are not covered by express provisions of this subcontract. The Contractor and Subcontractor shall observe such rules and regulations.

(b) Where the terms of this subcontract provide for action to be based upon the opinion or determination of any party to this subcontract, whether or not stated to be conclusive, said terms shall not be construed as permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or determinations. In the event that the Contractor or Subcontractor questions any factual determination made by the Contracting Officer, the findings as to the facts shall be made by the Secretary only after consultation with the Contractor or Subcontractor and shall be conclusive upon the parties.

6.6 Officials Not to Benefit.

(a) No Member of or Delegate to Congress or Resident Commissioner shall be admitted to any share or part of this subcontract or to any benefit that may arise herefrom. This restriction shall not be construed to extend to this subcontract if made with a corporation or company for its general benefit.

(b) No official of the Subcontractor shall receive any benefit that may arise by reason of this subcontract other than as a water user within the Project and in the same manner as other water users within the Project.

6.7 Assignment Limited--Successors and Assigns Obligated. The provisions of this subcontract shall apply to and bind the successors and assigns of the parties hereto, but no assignment or transfer of this subcontract or any part or interest therein shall be valid until approved by the Contracting Officer.

6.8 Judicial Remedies Not Foreclosed. Nothing herein shall be construed (a) as depriving any party from pursuing and prosecuting any remedy in any appropriate court of the United States or the State of Arizona which would otherwise be available to such parties even though provisions herein may declare that determinations or decisions of the Secretary or other persons are conclusive or (b) as depriving any party of any defense thereto which would otherwise be available.

6.9 Books, Records, and Reports. The Subcontractor shall establish

and maintain accounts and other books and records pertaining to its financial transactions, land use and crop census, water supply, water use, changes of Project works, and to other matters as the Contracting Officer may require. Reports thereon shall be furnished to the Contracting Officer in such form and on such date or dates as he may require. Subject to applicable Federal laws and regulations, each party shall have the right during office hours to examine and make copies of each other's books and records relating to matters covered by this subcontract.

6.10 Equal Opportunity. During the performance of this subcontract, the Subcontractor agrees as follows:

(a) The Subcontractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Subcontractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Subcontractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The Subcontractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Subcontractor, state that all qualified applicants shall receive consideration for employment without discrimination because of race, color, religion, sex, or national origin.

(c) The Subcontractor shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Contracting Officer, advising said labor union or workers' representative of the Subcontractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Subcontractor shall comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(e) The Subcontractor shall furnish all information and reports required by said amended Executive Order and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records, and accounts by the Contracting Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Subcontractor's noncompliance with the nondiscrimination clauses of this subcontract or with any of the such rules, regulations, or orders, this subcontract may be canceled, terminated, or suspended, in whole or in part, and the Subcontractor may be declared ineligible for further Government contracts in accordance with procedures authorized in said amended Executive Order and such other sanctions may be imposed and remedies invoked as provided in said amended Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Subcontractor shall include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of

1 said amended Executive Order, so that such provisions shall be binding upon each
2 subcontractor or vendor. The Subcontractor shall take such action with respect to any
3 subcontract or purchase order as may be directed by the Secretary of Labor as a means
4 of enforcing such provisions, including sanctions for noncompliance; Provided, however,
5 That in the event a Subcontractor becomes involved in, or is threatened with, litigation with
6 a subcontractor or vendor as a result of such direction, the Subcontractor may request the
7 United States to enter into such litigation to protect the interest of the United States.
8 6.11 Title VI, Civil Rights Act of 1964.

9 (a) The Subcontractor agrees that it shall comply with Title VI
10 of the Civil Rights Act of July 2, 1964 (78 Stat. 241), and all requirements imposed by or
11 pursuant to the Department of the Interior Regulation (43 CFR 17) issued pursuant to that
12 title to the end that, in accordance with Title VI of that Act and the Regulation, no person
13 in the United States shall, on the grounds of race, color, or national origin be excluded from
14 participation in, be denied the benefits of, or be otherwise subjected to discrimination under
15 any program or activity for which the Subcontractor receives financial assistance from the
16 United States and hereby gives assurance that it shall immediately take any measures to
17 effectuate this agreement.

18 (b) If any real property or structure thereon is provided or
19 improved with the aid of Federal financial assistance extended to the Subcontractor by the
20 United States, this assurance obligates the Subcontractor, or in the case of any transfer of
21 such property, any transferee for the period during which the real property or structure is
22 used for a purpose involving the provision of similar services or benefits. If any personal
23 property is so provided, this assurance obligates the Subcontractor for the period during
24 which it retains ownership or possession of the property. In all other cases, this assurance
25 obligates the Subcontractor for the period during which the Federal financial assistance is
26 extended to it by the United States.

1 (c) This assurance is given in consideration of and for the
2 purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or
3 other Federal financial assistance extended after the date hereof to the Subcontractor by
4 the United States, including installment payments after such date on account of
5 arrangements for Federal financial assistance which were approved before such date. The
6 Subcontractor recognizes and agrees that such Federal financial assistance shall be
7 extended in reliance on the representations and agreements made in this assurance, and
8 that the United States shall reserve the right to seek judicial enforcement of this assurance.
9 This assurance is binding on the Subcontractor, its successors, transferees, and
10 assignees.

11 6.12 Confirmation of Subcontract. The Subcontractor shall promptly
12 seek a final decree of the proper court of the State of Arizona approving and confirming the
13 subcontract and decreeing and adjudging it to be lawful, valid, and binding on the
14 Subcontractor. The Subcontractor shall furnish to the United States a certified copy of such
15 decree and of all pertinent supporting records. This subcontract shall not be binding on the
16 United States, the Contractor, or the Subcontractor until such final decree has been
17 entered.

18 6.13 Contingent on Appropriation or Allotment of Funds.

1 The expenditure or advance of any money or the performance of any work by the United
2 States hereunder which may require appropriation of money by the Congress or the
3 allotment of funds shall be contingent upon such appropriation or allotment being made.
4 The failure of the Congress to appropriate funds or the absence of any allotment of funds
5 shall not relieve the Subcontractor from any obligation under this subcontract. No liability
6 shall accrue to the United States in case such funds are not appropriated or allotted.

7 IN WITNESS WHEREOF, the parties hereto have executed this subcontract

8 No. _____ the day and year first above-written.

9 Legal Review and Approval

10 THE UNITED STATES OF AMERICA

11 By: _____
12 Field Solicitor
13 Phoenix, Arizona

14 By: _____
15 Regional Director
16 Lower Colorado Region
17 Bureau of Reclamation

18 CENTRAL ARIZONA WATER
19 CONSERVATION DISTRICT

20 Attest: _____
21 Secretary

22 By: _____
23 President

24 [ENTITY] _____

25 Attest: _____

26 By: _____

Title: _____

Title: _____

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